

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86269396
LAW OFFICE ASSIGNED	LAW OFFICE 111
MARK SECTION (no change)	
ARGUMENT(S)	
<p>The following request for reconsideration is in response to the final Office Action.</p> <p style="text-align: center;"><u>RESPONSE</u></p> <p><u>1. Disclaimer</u></p> <p>The Examining Attorney refused registration of Applicant's mark under Trademark Act Section 6, 15 U.S.C. §1056; TMEP §§1213 and 1213.03(a) requiring a disclaimer of the word "leaf" on the ground that "the term "LEAF" in applicant's mark is descriptive because applicant's goods include beverages and drinks which could be made from leaves".</p> <p>Applicant respectfully submits that the word "leaf" is not merely descriptive and should not have to be disclaimed. Accordingly, Applicant requests that the refusal to register based on Trademark Act Section 6, 15 U.S.C. §1056; TMEP §§1213 and 1213.03(a) be withdrawn.</p> <p><u>A. Applicable Legal Standard</u></p> <p>The PTO can only require a disclaimer of that portion of a mark that is primarily merely descriptive of the goods. The term "merely" means "only," and a mark is "merely descriptive" when considered in connection with its particular goods only when it does nothing but describe those goods.</p>	

T.M.E.P. § 1209.01. “‘Merely’ is considered to mean ‘only.’” In re Quik-Print Copy Shop, Inc., 205 U.S.P.Q. 505, 507 n.7 (C.C.P.A. 1980). Accordingly, even were the word “leaf” properly considered descriptive of Applicant’s goods – which, as noted below, it is not – the term must only describe Applicant’s goods. In this case, of course, the basis for the disclaimer requirement is that the word “leaf” is allegedly merely descriptive of Applicant’s goods, and therefore principles applied to merely-descriptive analyses are also applicable in this disclaimer context.

On the other hand, if one must exercise mature thought or follow a multi-stage reasoning process in order to infer what characteristics the term implies in relation to the applied-for goods, or if the term conveys multiple meanings, then the term is suggestive rather than merely descriptive. See Citibank, N.A. v. Citibanc Group, Inc., 724 F.2d 1540, 222 U.S.P.Q. 292 (11th Cir.), reh’g denied, 731 F.2d 891 (11th Cir. 1984) (holding CITIBANK at most suggestive, and not merely descriptive, of an urban bank).

Moreover, the T.M.E.P. provides that the Examining Attorney has **discretion** over whether or not a request for a disclaimer is necessary. In particular, Section 1213.01(a) of the T.M.E.P. states that: “[i]n 1962, §6 was amended to state that the Director *may* require the applicant to disclaim an unregistrable component of a mark otherwise registrable. The change from ‘shall’ to ‘may’ justifies the exercise of greater discretion by examining attorneys in determining whether a disclaimer is necessary.” Again, Applicant respectfully submits that, for the reasons set forth below, a disclaimer is not necessary in this case and the Examining Attorney should exercise the discretion and latitude granted to Examining Attorneys and not require a disclaimer in this instance.

B. Applicant’s Use Of A Leaf Logo In Its Branding

Applicant’s well known logo consists of its house mark BAI and a green leaf as the dot on the letter “I” in the word BAI. Applicant also features a leaf design on its bottles and other marketing and promotional materials. See Exhibit A. Contrary to the Examining Attorney’s position, the word “leaf” in Applicant’s mark is not a reference to an ingredient in the goods or a description of the goods, but a direct reference to Applicant’s logo and its use of a leaf in Applicant’s logo and branding.

C. A descriptive connotation does not preclude a mark from being suggestive

The word “leaf” is not merely descriptive of the applied-for goods, and is, at the least, suggestive of the applied-for goods or evocative of a feeling about the goods. It is well established that suggestiveness is not a bar to registration on the Principal Register. In this regard, T.M.E.P. § 1209.01(a) provides in pertinent part: “a designation does not have to be devoid of all meaning relative to the goods or services to be registrable.” Therefore, a mark can have the capacity to draw attention to what the product or service is or what its characteristics are, and still be registrable. The C.C.P.A. has held that a suggestive, and therefore registrable, mark may even go so far as to possess a “descriptive connotation,” which is a connotation that conveys an impression of the goods. “The simple presence of that type of descriptive connotation, like the presence of suggestiveness, will not preclude registration where the mark is not merely descriptive of the goods.” The Coca-Cola Co. v. Seven-Up. Co., 497 F.2d 1351, 182 U.S.P.Q. 207, 209 (C.C.P.A. 1974) (holding UNCOLA not merely descriptive of noncola soft drinks). Thus, even if the word “leaf” does arguably convey an impression of the applied-for goods, or the characteristics thereof, by virtue of a “descriptive connotation,” the *Coca-Cola* case makes it clear that such a connotation shall not preclude registration of the word “leaf” for the applied-for goods.

D. Any doubt with respect to the proper categorization of a mark must be resolved in favor of Applicant

Where there exists any doubt as to the proper categorization of a particular mark or term within the “four classic categories,” such doubt must be resolved in favor of the applicant. In re Conductive Systems, Inc., 220 U.S.P.Q. 84, 86 (T.T.A.B. 1986) (citations omitted).

E. The Examining Attorney’s evidence is deficient for proving that “leaf” is merely descriptive

The Examining Attorney's refusal is based on contention that there is "Internet evidence" "consisting of articles which discuss beverages that are made from grinding or brewing the leaves of various plants" or definitions that show that beverages can be made from leaves, like tea. This "evidence" of descriptiveness is deficient for several reasons, which Applicant will discuss in more detail below.

A search of the PTO's TESS database reveals several registrations and published or allowed applications for arguably similar goods which use the words "leaf" or "leaves" in a similar context as Applicant – including numerous marks for "tea", but were not required to disclaim the words "leaf" or "leaves". Thus, even the Examining Attorney's argument that LEAF is an ingredient and is therefore descriptive is misplaced as marks for teas in Class 30 have been registered without a disclaimer of LEAF. Moreover, it should be remembered that Applicant is applying for goods in Class 32 and not Class 30.

A chart summarizing these marks is set forth below.

Mark	Reg/Serial No.	Relevant Goods
LEAF & LOVE	4629942	Aloe juice beverages; Apple juice beverages; Beauty beverages, namely, fruit juices and energy drinks containing nutritional supplements; Coconut-based beverages not being milk substitutes; Cola drinks; Concentrates for making fruit drinks; Concentrates, syrups or powders for making soft drinks or tea-flavored beverages; Drinking water with vitamins; Drinking waters; Energy drinks; Frozen fruit drinks; Fruit beverages; Fruit concentrates and purees used as ingredients of beverages; Fruit drinks and fruit juices; Fruit drinks and juices; Fruit flavored drinks; Fruit flavored soft drinks; Fruit flavoured carbonated drinks; Fruit-based beverages; Fruit-flavored beverages; Grape juice beverages; Isotonic drinks; Lemon juice for use in the preparation of beverages; Lemonade; Lemonades; Lime juice for use in the preparation of beverages; Non-alcoholic beverages containing fruit juices; Non-alcoholic fruit juice beverages; Non-

		alcoholic honey-based beverages; Orange juice beverages; Pineapple juice beverages; Soft drinks; Soft drinks, namely, sodas; Sports drinks; Syrup for making lemonade; Syrups for making fruit-flavored drinks; Vegetable drinks in Class 32
MIGHTY LEAF ORIGINS	4321988	Tea; Herbal tea for food purposes; Tea bags; Tea extracts; Tea substitutes; Tea-based beverages in Class 30
TRIPLE LEAF TEA Disclaimer: TEA	3900142	Tea in Class 30
BAMBOO LEAF GREEN	3148868	Tea; tea substitute in Class 30
SWEET LEAF	3590263	Iced tea in Class 30
ORANGE LEAF	4666313	Smoothies; Smoothies in Class 32
LUCKY LEAF	1190149	Canned Apple Juice, Prune Juice, Grape Juice and Tomato Juice
APPLE LEAF	1394281	Apple Juice in Class 32
SWEET LEAF	3590264	Lemonades in Class 32
COCO LEAF	3887342	Coconut-based beverages in Class 32
LEAF & STEM NATURALS	85907068 (Notice of Allowance Jun. 10, 2014)	herbal juices, herbal nonalcoholic beers, seltzer water, herbal drinks in Class 32
NEW LEAF	2916219	non-alcoholic beverages, namely, iced teas, herbal teas and tea-based beverages with fruit flavoring in Class 30; non - alcoholic beverages namely carbonated soft drinks, fruit juices, smoothies, drinking water, fruit drinks, energy drinks, sports and energy drinks in Class 32
LEAF OF FAITH	4191348	Tea in Class 30
DEAD LEAF GREEN	4227033	Beer in Class 32
FROM A LEAF, NOT A	86379182	tea and beverages made from tea in Class

LAB	(Published January 20, 2015)	30; energy drinks; energy drinks containing nutritional supplements in Class 32
LOOSE LEAF	4389650	Ale; Beer in Class 32
TWO LEAVES TEA COMPANY	4267597	Beverages made of tea; Black tea; Chai tea; Coffee and tea; Fruit teas; Green tea; Herb tea; Herbal tea; Iced tea; Tea in Class 30
PIPER AND LEAF	86266776 (Published September 23, 2014)	Tea; Tea extracts; Tea-based beverages in Class 30

Current printouts of these registrations and applications from the PTO's TESS database are attached hereto as Exhibit B and made of record.

From a review of the PTO records it is evident that the PTO has often held that marks using the word "leaf" in connection with goods which are arguably similar to the applied-for goods are not merely descriptive. At a minimum, these marks are suggestive, or have a "descriptive connotation" and were found registrable. Applicant's use of the word "leaf" is no different than the use of the marks shown in the registrations and applications made of record. Instead, the word "leaf" alone and as it appears in the mark is more of an abstract term and is suggestive. See In re Nett Designs, Inc., 236 F.3d 1339, 57 USPQ2d 1564, 1566 (Fed. Cir. 2001) (a term may slide along the continuum between suggestiveness and descriptiveness depending on usage, context, and other factors that affect the relevant public's perception of the term). The suggestiveness or "descriptive connotation" gleaned from Applicant's mark is no different than that of the marks referenced above.

Moreover, many of these registrations are for the exact types of beverages that the Examining Attorney points to as being the types of beverages made from leaves – such as tea. Thus, these registrations directly contradict the Examining Attorney's position.

Applicant submits these records as support that a common sense approach should be taken with respect to the disclaimer and to illustrate that the Examining Attorney should use discretion and not single

Applicant out by requiring the disclaimer. The third party registrations and applications, at a minimum, contradict and overcome the Examining Attorney's evidence. [1]

F. The mark is a composite mark and LEAF should not be disclaimed

As noted above, the mark THE BAI LEAF is a direct reference to Applicant's logo which includes a leaf. The word is not used descriptively. As such, the entire mark is a composite, unitary mark and Applicant should not have to disclaim the word LEAF from the composite mark. See Section 1213.02 of the TMEP ("However, if a composite mark (or portion thereof) is "unitary," an individual component of the mark (or of the unitary portion) that would otherwise be unregistrable need not be disclaimed."). As the entire phrase is a reference to Applicant's logo, it takes on an entire independent commercial impression/meaning, separate and apart from any perceived descriptive connotation advanced by the Examining Attorney. Here, the whole is something more than the sum of its parts.

G. Applicant's mark is a double entendre and LEAF is not descriptive

Applicant's mark, when used in connection with the applied-for goods, creates a double entendre and, therefore, is not merely descriptive. Section 1213.05(c) of the TMEP states that:

A "double entendre" is a word or expression capable of more than one interpretation. For trademark purposes, a "double entendre" is an expression that has a double connotation or significance *as applied to the goods or services*. The mark that comprises the "double entendre" will not be refused registration as merely descriptive if one of its meanings is not merely descriptive in relation to the goods or services.

A mark that is a double entendre creates "a different commercial impression or connotation from that conveyed by a misspelled generic or descriptive term." In re Grand Metropolitan Foodservice, Inc., 30 U.S.P.Q.2d 1974, 1975-76 (T.T.A.B. 1994) (Holding that the meaning or commercial impression of inventive MUFFUNS mark is more than simply "muffins"). When the mark "possesses a degree of ingenuity in its phraseology which is evident in the double entendre that it projects," the mark is not merely descriptive. In re Delaware Punch Co., 186 U.S.P.Q. 63, 64 (T.T.A.B. 1975). Applicant's mark creates a different commercial impression from that of the Examining Attorney's alleged descriptive connotation.

Applicant refutes the Examining Attorney's contention that LEAF is descriptive. Applicant's marks is a reference to its logo. Thus, the mark is a double entendre referencing the logo, and not any descriptive characteristic of the goods.

The word "leaf" in the mark is not used to describe the nature of the goods. Because the term "leaf" as well as the mark as a whole is clearly capable of at least two very distinctive interpretations, Applicant's mark is, by definition, not merely descriptive. Instead, a consumer will have to take a mental pause to evaluate the services that are suggested by the mark to arrive at the conclusion as to the particular type of goods that are actually offered in connection with the mark. As such, the mark is merely suggestive.

In *In re Kraft, Inc.* the TTAB held that:

The mark "LIGHT N' LIVELY" as a whole has a suggestive significance which is distinctly different from the merely descriptive significance of the term "LIGHT" per se. That is, the merely descriptive significance of the term "LIGHT" is lost in the mark as a whole.

See 218 USPQ 571, 573 (TTAB 1983).

Similarly, in *In re Symbra'ette, Inc.*, the TTAB held that the mark SHEER ELEGANCE for panty hose was registrable as a unitary expression. 189 U.S.P.Q. 448 (TTAB 1975). See also In re Colonial Stores Inc., 394 F.2d 549, 157 U.S.P.Q. 382 (C.C.P.A. 1968) (Holding SUGAR & SPICE registrable for bakery products); In re Simmons Co., 189 U.S.P.Q. 352 (TTAB 1976) (Holding THE HARD LINE registrable for mattresses and bed springs); In re Delaware Punch Co., 186 U.S.P.Q. 63 (TTAB 1975) (Holding THE SOFT PUNCH registrable for noncarbonated soft drink); In re National Tea Co., 144 U.S.P.Q. 286 (TTAB 1965) (Holding NO BONES ABOUT IT registrable for fresh pre-cooked ham).

In support of this position, Applicant directs the Examining Attorney's attention to Airco, Inc. v. Air Products & Chemicals, Inc., 196 U.S.P.Q. 832 (T.T.A.B. 1977), where the Board held that the mark AIR-CARE was not merely descriptive of the applicant's preventative maintenance services for hospital and medical anesthesia and inhalation therapy equipment. In reaching this decision, the Board

stated:

[t]he literal meaning of the mark, namely, ‘care of the air’ may, through an exercise of mental gymnastics and extrapolation suggest or hint the nature of applicant’s services, but it does not, in any clear or precise way, serve merely to describe applicant’s [services].

Similarly, as discussed above, there is no one literal meaning for the wording THE BAI LEAF. Thus, it is apparent that a consumer would in fact have no idea regarding the particular type of goods offered in connection with Applicant’s mark.

Applicant’s mark is no different than the “double entendres” contained in the cases and registrations cited above. Applicant’s unique combination of terms creates a separate commercial expression that has a suggestive significance which is distinctly different from the merely descriptive significance ascribed by the Examining Attorney. The individual terms in the mark THE BAI LEAF function as a unit, with each relating to the other to form a double entendre, rather than describing the applied-for goods. As Applicant’s mark is a double entendre, it is not merely descriptive.

H. Thought or analysis must be used to get from “leaf” to the applied for goods

A term is suggestive if, when applied to the goods, it requires some imagination, thought or perception to reach a conclusion as to the nature of the goods. In re Abcor Development Corp., 588 F.2d 811, 200 U.S.P.Q. 215 (C.C.P.A. 1978); T.M.E.P. § 1209.01(b). In other words, a mark is suggestive, and not merely descriptive, where some mental analysis is required to understand the application of the mark to the services. Ex Parte Consolidated Products., 76 U.S.P.Q. 127.

Consumers are not immediately able to discern Applicant’s applied-for goods from reviewing the word “leaf” because it is not readily apparent what the word means in connection with Applicant’s applied-for goods. The word forces consumers to ponder the meaning of the mark in connection with Applicant’s applied-for goods. The term “leaf” is not readily associated with beverages. Consumers do not use the term to order beverages. Consumers do not say “give me a grinded or brewed leaf

drink”. They do not say “leaf” when ordering beverages.

At the very minimum, the public must make a “mental pause” to somehow fully comprehend what are Applicant’s applied-for goods. A term is suggestive if its “import would not be grasped without some measure of imagination and ‘mental pause.’” In re Shutts, 217 U.S.P.Q. 363, 364-65 (T.T.A.B. 1983) (“Shutts”) (SNO-RAKE not merely descriptive of “a snow removal hand tool having a handle with a snow-removing head at one end, the head being of solid uninterrupted construction without prongs”). A consumer must ponder the meaning of the word “leaf” in the context of the applied-for goods and determine that usage of the word “leaf” relates to such goods. This, analysis is the exact multistep process discussed in the TMEP and case law.[2]

According to the Examining Attorney, leaf is descriptive because beverages can be made from grinding or brewing the leaves. If this is true, then a consumer seeing Applicant’s THE BAI LEAF mark must go through the following process:

1. The consumer must see the mark THE BAI LEAF
2. The consumer must contemplate the LEAF and its connection to the term BAI, which is Applicant’s brand name
3. The consumer must then ponder the meaning of the word LEAF
4. The consumer must then derive that LEAF could mean a LEAF that could be grinded or brewed
5. According to the Examining Attorney, that consumer must then contemplate that beverages can be made from a LEAF that can be grinded or brewed

This is exact mental analysis that makes a term suggestive and not descriptive.

Even if the Examining Attorney does not subscribe to Applicant’s multistep analysis, Applicant requests the Examining Attorney to ponder the Examining Attorney’s own beverage purchasing habits and consider whether the Examining Attorney has ever used the word LEAF to describe a beverage or

order a beverage. One does not say – “that beverage sure is leafy” or “I’m thirsty, I’ll have a leaf”. The word LEAF is not used to describe beverages.

Moreover, “[i]f information about the product or service given by the term used as a mark is indirect or vague, then this indicates that the term is being used in a ‘suggestive,’ not descriptive, manner.” 2 J. Thomas McCarthy, McCarthy on Trademarks and Unfair Competition § 11:19 (4th ed. 2006). This notion is simply the flip side of the aforementioned requirement that the term immediately conveys knowledge about a significant feature of the goods, for if the knowledge is not conveyed directly or if it does not concern a significant attribute, the significance of the term will not be immediately obvious and there will thus be a “mental pause” in the mind of the consumer.

In Shutts, supra, upon reversing the Examining Attorney’s descriptiveness objection, the Board noted that “[t]he concept of mere descriptiveness . . . must relate to general and readily recognizable word formulations and meanings, either in a popular or technical usage context.” Id. at 364.

Applicant submits that the word “leaf” does not immediately convey any idea of the goods offered in association with the mark. Instead, certain amounts of imagination, thought and perception are required for the average prospective purchaser to reach a conclusion as to the type of goods offered in connection with Applicant’s mark. Even if “leaf” has a descriptive connotation, as the *Uncola* case, states, this is not enough to require a disclaimer. In addition, the mark “stimulates speculation as to its intended meaning and leaves the mind in doubt.” As the mark as a whole – as well as the word “leaf” itself - applies a suggestive and imaginative twist to its product or service name, the mark is not merely descriptive.

I. The mark is at least suggestive of the applied-for goods

As indicated above, Applicant’s mark is suggestive because it requires imagination and a mental pause in order for a consumer to make a connection between the mark and Applicant’s goods. A certain amount of imagination, thought and perception are required for the average prospective purchaser to reach a conclusion as to the specific type of goods offered in connection with Applicant’s mark.

There is an element of incongruity which an individual encountering the mark THE BAI LEAF must interpret in order to arrive at the conclusion of what are Applicant's applied-for goods. Section 1213.05(d) of the T.M.E.P. states that "[i]f two or more terms are combined in a mark to create an incongruity (*e.g.*, URBAN SAFARI, MR. MICROWAVE, DR. GRAMMAR), the mark is unitary and no disclaimer of nondistinctive individual elements is necessary."

In *In re Southern National Bank of North Carolina*, the TTAB held that the mark MONEY 24 was suggestive, and not merely descriptive, of banking services, namely, automatic teller machine services. 219 U.S.P.Q. 1231 (T.T.A.B. 1983). The TTAB held that:

[t]he term 'MONEY 24' involves, in applicant's words, 'an element of incongruity' or incompleteness which we believe an individual encountering the mark must interpret in order to arrive at the conclusion that one has access to his or her money by use of applicant's services on a twenty-four hour-a-day basis.

Id. See *American Home Products Corp. v. Johnson Chemical Co.*, 589 F.2d 103, 200 U.S.P.Q. 417 (2d Cir. 1978) (Holding ROACH MOTEL for insect trap held not descriptive because its "very incongruity is what catches one's attention").

Likewise, in *In re Cleaner's Supply, Inc.*, a noncitable decision, the Board reversed a merely-descriptive refusal of BRIDAL KEEPSAFE for "cardboard and paper boxes for storing gowns after dry cleaning." The Examining Attorney argued that the mark BRIDAL KEEPSAFE was merely descriptive because the applicant's boxes were used to keep bridal gowns safe. Ser. No. 75/582,044 (T.T.A.B. January 23, 2003). However, the Board found the mark suggestive (pages 4-5):

[A]lthough these individual elements "bridal," "keep" and "safe" have some descriptive significance, we cannot say, based on the meanings of the individual words, that the combination BRIDAL KEEPSAFE is merely descriptive of applicant's goods. . . . In this case, some degree of thought or imagination must be used to get from BRIDAL KEEPSAFE to the concept "keeps bridal gowns safe," a phrase which would, of course, be merely descriptive of applicant's boxes. That is, there is an element of incompleteness which we believe an individual encountering the mark must interpret in

order to arrive at the conclusion that applicant's boxes are used for holding wedding gowns after cleaning.

There is a similar "element of incongruity" in Applicant's THE BAI LEAF mark such that consumers would not automatically interpret the word "leaf" in the mark to indicate Applicant's applied-for goods. The combination of the words "leaf" and BAI is not one that consumers are used to seeing especially in the context of Applicant's applied-for goods. The two terms do not agree with each other. Consumers do not typically associate the words "leaf" and BAI in connection with Applicant's applied-for goods. Most consumers do not associate the word "leaf" with a drink.

Applicant's unique combination of terms in the phrase THE BAI LEAF forces these incongruous terms together. The combination of terms in Applicant's mark is so incongruous that it forces consumers to ponder the meaning of the phrase THE BAI LEAF and its connection to Applicant's applied-for goods and fully analyze the word "leaf." This is the exact mental analysis that makes the word "leaf" suggestive and not subject to a disclaimer.

The incongruity provided by the unique combination of the words "leaf" and BAI causes consumers to ponder the mark and perform the exact mental analysis described in the case law and T.M.E.P., which is characteristic of a suggestive mark.

The word "leaf" is not the word typically used to describe the goods. Thus, it cannot be said that the word "leaf," as a whole, does nothing but describe Applicant's applied-for goods, because the characteristics or functions of Applicant's applied-for goods are not instantly apparent or immediately indicated by the mark sought to be registered. Accordingly, Applicant should not be required to disclaim the word "leaf" in the mark.

CONCLUSION

In light of the amendments, remarks, and information set forth above, Applicant respectfully submits that the application is now in condition to be passed to publication. If the Examining Attorney has any further questions or comments, the Examining Attorney is requested to contact the undersigned

at the number below.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Jonathan A. Hyman

2040 Main Street, 14th Floor

Irvine, CA 92614

(310) 551-3450

[1] While Applicant is mindful that these third-party registrations are not conclusive on the issue of mere descriptiveness, Applicant respectfully submits that they strongly support Applicant's position. For example, in reversing a merely-descriptive refusal of MISS NUDE CENTERFOLD SEARCH, the Board recently had occasion to explain that "even though the submission of copies of third-party registrations may not be said to establish a binding USPTO practice, it remains the case that such registrations may in general be given some weight to show the meaning of a mark in the same way that dictionary definitions would be so used." In re JMH Prods., Inc., Ser. No. 76/608,812, page 11, available at <http://www.uspto.gov/web/offices/com/sol/foia/ttab/2eissues/2006/76608812.pdf> (T.T.A.B. August 25, 2006). The Board explicitly found that "the plethora of third-party registrations submitted by applicant serve at the very least to raise some doubt" that the applicant's mark is merely descriptive, and it therefore reversed the refusal. Id. at 15. See also In re Men's Int'l Prof'l Tennis Council, 1 U.S.P.Q.2d 1917, 1919 (T.T.A.B. 1986) (reversing merely-descriptive refusal of MASTERS and, with respect to third-party registrations for the term, holding that "the fact that MASTERS has been registered on the Principal Register for golf tournaments, albeit not conclusive evidence of the registrability of MASTERS by appellant for different services, tends to rebut the Examining Attorney's characterization of MASTERS.").

[2] See e.g., Blisscraft of Hollywood v. United Plastics Co. et. al., 131 U.S.P.Q. 55 (2nd Cir. 1961); (POLY PITCHER not merely descriptive to the prospective purchasers of the goods); Ex parte Candle Vase, Inc., 105 U.S.P.Q. 73, 74 (Comm'r of Patents 1965) (CANDLE VASE not merely descriptive of flower holder adapted for fitting around the base of a candle since the mark "stimulates speculation as to its intended meaning and leaves the mind in doubt"); In re Scott Paper Co., 180 U.S.P.Q. 283 (T.T.A.B. 1973) (MICRO-WIPES for small paper wipes held "merely suggestive"); In re TMS Corp. of the Americas, 200 U.S.P.Q. 57, 58-59 (T.T.A.B. 1978) (THE MONEY STORE is not merely descriptive of financial goods business); Rodeo Collection Ltd. v. West Seventh, 2 U.S.P.Q.2d 1204, 1206-1207 (9th Cir. 1987) (RODEO COLLECTION not merely descriptive for shopping center goods); In re Abcor Development Corp., 588 F.2d 811, 200 U.S.P.Q. 215 (C.C.P.A. 1978); Levi Strauss & Co. v. R. Josephs Sportswear, Inc., 28 U.S.P.Q.2d 1464 (T.T.A.B. 1993) (ACTION SLACKS not merely descriptive of pants); Citibank, N.A. v. Citibanc Group, Inc., 724 F.2d 1540, 222 U.S.P.Q. 292 (11th Cir.), reh'g denied, 731 F.2d 891 (11th Cir. 1984) (CITIBANK is at most suggestive, and is not merely descriptive, of an urban bank); In re Shop-Vac Corp., 219 U.S.P.Q. 470 (T.T.A.B. 1983) (WET/DRY BROOM is suggestive of electric vacuum cleaners); Manpower v. Driving Force, Inc., 212 U.S.P.Q. 961 (T.T.A.B. 1981) (DRIVING FORCE is suggestive of truck driving services because imagination is required to reach a conclusion about the nature of the services); Ex parte Consolidated Prods. Co., 76

U.S.P.Q. 73, 74 (Comm'r of Patents 1948); In re Daisy Mfg. Co., 135 U.S.P.Q. 213 (T.T.A.B. 1962) (TV GUNS OF THE WEST not merely descriptive of toy guns); Audio Fidelity, Inc. v. London Records, Inc., 141 U.S.P.Q. 792 (C.C.P.A. 1964) (AUDIO FIDELITY not merely descriptive of phonograph records); and In re Werner Electric Brake & Clutch Co., 154 U.S.P.Q. 328 (T.T.A.B. 1967) (ELECTRO-MODULE not descriptive of goods even though each term, considered separately, was found to describe applicant's goods).

EVIDENCE SECTION

EVIDENCE FILE NAME(S)

ORIGINAL PDF FILE	evi_1732271924-20150202171237465461_.BAI.048T-OAResp-Exh-A.pdf
CONVERTED PDF FILE(S) (2 pages)	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0002.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0003.JPG
ORIGINAL PDF FILE	evi_1732271924-20150202171237465461_.BAI.048T-OAResp-Exh-B-1.pdf
CONVERTED PDF FILE(S) (15 pages)	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0004.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0005.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0006.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0007.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0008.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0009.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0010.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0011.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0012.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0013.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0014.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0015.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0016.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0017.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0018.JPG
ORIGINAL PDF FILE	evi_1732271924-20150202171237465461_.BAI.048T-OAResp-Exh-B-2.pdf
CONVERTED PDF FILE(S)	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0019.JPG

(20 pages)	
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0020.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0021.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0022.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0023.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0024.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0025.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0026.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0027.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0028.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0029.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0030.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0031.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0032.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0033.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0034.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0035.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0036.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0037.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\862\693\86269396\xml10\RFR0038.JPG
DESCRIPTION OF EVIDENCE FILE	Exhibit A: example of BAI logo with leaf design; Exhibit B: TESS printouts of LEAF marks
SIGNATURE SECTION	
RESPONSE SIGNATURE	/jhh/
SIGNATORY'S NAME	Jonathan A. Hyman
SIGNATORY'S POSITION	Attorney of record, California bar member
SIGNATORY'S PHONE NUMBER	310-551-3450
DATE SIGNED	02/02/2015
AUTHORIZED SIGNATORY	YES

CONCURRENT APPEAL NOTICE FILED	NO
FILING INFORMATION SECTION	
SUBMIT DATE	Mon Feb 02 17:28:10 EST 2015
TEAS STAMP	USPTO/RFR-173.227.19.24-2 0150202172810087210-86269 396-53068642ad232e827f742 115043b4e5c23776285a7ee49 f4717338c9f4e5dc9ac-N/A-N /A-20150202171237465461

PTO Form 1960 (Rev 9/2007)
OMB No. 0651-0050 (Exp. 07/31/2017)

Request for Reconsideration after Final Action To the Commissioner for Trademarks:

Application serial no. **86269396** has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

The following request for reconsideration is in response to the final Office Action.

RESPONSE

1. Disclaimer

The Examining Attorney refused registration of Applicant's mark under Trademark Act Section 6, 15 U.S.C. §1056; TMEP §§1213 and 1213.03(a) requiring a disclaimer of the word "leaf" on the ground that "the term "LEAF" in applicant's mark is descriptive because applicant's goods include beverages and drinks which could be made from leaves".

Applicant respectfully submits that the word "leaf" is not merely descriptive and should not have to be

disclaimed. Accordingly, Applicant requests that the refusal to register based on Trademark Act Section 6, 15 U.S.C. §1056; TMEP §§1213 and 1213.03(a) be withdrawn.

A. Applicable Legal Standard

The PTO can only require a disclaimer of that portion of a mark that is primarily merely descriptive of the goods. The term “merely” means “only,” and a mark is “merely descriptive” when considered in connection with its particular goods only when it does nothing but describe those goods. T.M.E.P. § 1209.01. “‘Merely’ is considered to mean ‘only.’” In re Quik-Print Copy Shop, Inc., 205 U.S.P.Q. 505, 507 n.7 (C.C.P.A. 1980). Accordingly, even were the word “leaf” properly considered descriptive of Applicant’s goods – which, as noted below, it is not – the term must only describe Applicant’s goods. In this case, of course, the basis for the disclaimer requirement is that the word “leaf” is allegedly merely descriptive of Applicant’s goods, and therefore principles applied to merely-descriptive analyses are also applicable in this disclaimer context.

On the other hand, if one must exercise mature thought or follow a multi-stage reasoning process in order to infer what characteristics the term implies in relation to the applied-for goods, or if the term conveys multiple meanings, then the term is suggestive rather than merely descriptive. See Citibank, N.A. v. Citibanc Group, Inc., 724 F.2d 1540, 222 U.S.P.Q. 292 (11th Cir.), reh’g denied, 731 F.2d 891 (11th Cir. 1984) (holding CITIBANK at most suggestive, and not merely descriptive, of an urban bank).

Moreover, the T.M.E.P. provides that the Examining Attorney has **discretion** over whether or not a request for a disclaimer is necessary. In particular, Section 1213.01(a) of the T.M.E.P. states that: “[i]n 1962, §6 was amended to state that the Director *may* require the applicant to disclaim an unregistrable component of a mark otherwise registrable. The change from ‘shall’ to ‘may’ justifies the exercise of greater discretion by examining attorneys in determining whether a disclaimer is necessary.” Again, Applicant respectfully submits that, for the reasons set forth below, a disclaimer is not necessary in this case and the Examining Attorney should exercise the discretion and latitude granted to Examining Attorneys and not require a disclaimer in this instance.

B. Applicant’s Use Of A Leaf Logo In Its Branding

Applicant's well known logo consists of its house mark BAI and a green leaf as the dot on the letter "I" in the word BAI. Applicant also features a leaf design on its bottles and other marketing and promotional materials. See Exhibit A. Contrary to the Examining Attorney's position, the word "leaf" in Applicant's mark is not a reference to an ingredient in the goods or a description of the goods, but a direct reference to Applicant's logo and its use of a leaf in Applicant's logo and branding.

C. A descriptive connotation does not preclude a mark from being suggestive

The word "leaf" is not merely descriptive of the applied-for goods, and is, at the least, suggestive of the applied-for goods or evocative of a feeling about the goods. It is well established that suggestiveness is not a bar to registration on the Principal Register. In this regard, T.M.E.P. § 1209.01(a) provides in pertinent part: "a designation does not have to be devoid of all meaning relative to the goods or services to be registrable." Therefore, a mark can have the capacity to draw attention to what the product or service is or what its characteristics are, and still be registrable. The C.C.P.A. has held that a suggestive, and therefore registrable, mark may even go so far as to possess a "descriptive connotation," which is a connotation that conveys an impression of the goods. "The simple presence of that type of descriptive connotation, like the presence of suggestiveness, will not preclude registration where the mark is not merely descriptive of the goods." The Coca-Cola Co. v. Seven-Up Co., 497 F.2d 1351, 182 U.S.P.Q. 207, 209 (C.C.P.A. 1974) (holding UNCOLA not merely descriptive of noncola soft drinks). Thus, even if the word "leaf" does arguably convey an impression of the applied-for goods, or the characteristics thereof, by virtue of a "descriptive connotation," the *Coca-Cola* case makes it clear that such a connotation shall not preclude registration of the word "leaf" for the applied-for goods.

D. Any doubt with respect to the proper categorization of a mark must be resolved in favor of Applicant

Where there exists any doubt as to the proper categorization of a particular mark or term within the

“four classic categories,” such doubt must be resolved in favor of the applicant. In re Conductive Systems, Inc., 220 U.S.P.Q. 84, 86 (T.T.A.B. 1986) (citations omitted).

E. The Examining Attorney’s evidence is deficient for proving that “leaf” is merely descriptive

The Examining Attorney’s refusal is based on contention that there is “Internet evidence” “consisting of articles which discuss beverages that are made from grinding or brewing the leaves of various plants” or definitions that show that beverages can be made from leaves, like tea. This “evidence” of descriptiveness is deficient for several reasons, which Applicant will discuss in more detail below.

A search of the PTO’s TESS database reveals several registrations and published or allowed applications for arguably similar goods which use the words “leaf” or “leaves” in a similar context as Applicant – including numerous marks for “tea”, but were not required to disclaim the words “leaf” or “leaves”. Thus, even the Examining Attorney’s argument that LEAF is an ingredient and is therefore descriptive is misplaced as marks for teas in Class 30 have been registered without a disclaimer of LEAF. Moreover, it should be remembered that Applicant is applying for goods in Class 32 and not Class 30.

A chart summarizing these marks is set forth below.

Mark	Reg/Serial No.	Relevant Goods
LEAF & LOVE	4629942	Aloe juice beverages; Apple juice beverages; Beauty beverages, namely, fruit juices and energy drinks containing nutritional supplements; Coconut-based beverages not being milk substitutes; Cola drinks; Concentrates for making fruit drinks; Concentrates, syrups or powders for making soft drinks or tea-flavored beverages; Drinking water with vitamins; Drinking waters; Energy drinks; Frozen fruit drinks; Fruit beverages; Fruit concentrates and purees used as ingredients of beverages; Fruit drinks and fruit juices; Fruit drinks and

		juices; Fruit flavored drinks; Fruit flavored soft drinks; Fruit flavoured carbonated drinks; Fruit-based beverages; Fruit-flavored beverages; Grape juice beverages; Isotonic drinks; Lemon juice for use in the preparation of beverages; Lemonade; Lemonades; Lime juice for use in the preparation of beverages; Non-alcoholic beverages containing fruit juices; Non-alcoholic fruit juice beverages; Non-alcoholic honey-based beverages; Orange juice beverages; Pineapple juice beverages; Soft drinks; Soft drinks, namely, sodas; Sports drinks; Syrup for making lemonade; Syrups for making fruit-flavored drinks; Vegetable drinks in Class 32
MIGHTY LEAF ORIGINS	4321988	Tea; Herbal tea for food purposes; Tea bags; Tea extracts; Tea substitutes; Tea-based beverages in Class 30
TRIPLE LEAF TEA Disclaimer: TEA	3900142	Tea in Class 30
BAMBOO LEAF GREEN	3148868	Tea; tea substitute in Class 30
SWEET LEAF	3590263	Iced tea in Class 30
ORANGE LEAF	4666313	Smoothies; Smoothies in Class 32
LUCKY LEAF	1190149	Canned Apple Juice, Prune Juice, Grape Juice and Tomato Juice
APPLE LEAF	1394281	Apple Juice in Class 32
SWEET LEAF	3590264	Lemonades in Class 32
COCO LEAF	3887342	Coconut-based beverages in Class 32
LEAF & STEM NATURALS	85907068 (Notice of Allowance Jun. 10, 2014)	herbal juices, herbal nonalcoholic beers, seltzer water, herbal drinks in Class 32
NEW LEAF	2916219	non-alcoholic beverages, namely, iced teas, herbal teas and tea-based beverages with fruit flavoring in Class 30; non - alcoholic

		beverages namely carbonated soft drinks, fruit juices, smoothies, drinking water, fruit drinks, energy drinks, sports and energy drinks in Class 32
LEAF OF FAITH	4191348	Tea in Class 30
DEAD LEAF GREEN	4227033	Beer in Class 32
FROM A LEAF, NOT A LAB	86379182 (Published January 20, 2015)	tea and beverages made from tea in Class 30; energy drinks; energy drinks containing nutritional supplements in Class 32
LOOSE LEAF	4389650	Ale; Beer in Class 32
TWO LEAVES TEA COMPANY	4267597	Beverages made of tea; Black tea; Chai tea; Coffee and tea; Fruit teas; Green tea; Herb tea; Herbal tea; Iced tea; Tea in Class 30
PIPER AND LEAF	86266776 (Published September 23, 2014)	Tea; Tea extracts; Tea-based beverages in Class 30

Current printouts of these registrations and applications from the PTO's TESS database are attached hereto as Exhibit B and made of record.

From a review of the PTO records it is evident that the PTO has often held that marks using the word "leaf" in connection with goods which are arguably similar to the applied-for goods are not merely descriptive. At a minimum, these marks are suggestive, or have a "descriptive connotation" and were found registrable. Applicant's use of the word "leaf" is no different than the use of the marks shown in the registrations and applications made of record. Instead, the word "leaf" alone and as it appears in the mark is more of an abstract term and is suggestive. See In re Nett Designs, Inc., 236 F.3d 1339, 57 USPQ2d 1564, 1566 (Fed. Cir. 2001) (a term may slide along the continuum between suggestiveness and descriptiveness depending on usage, context, and other factors that affect the relevant public's perception of the term). The suggestiveness or "descriptive connotation" gleaned from Applicant's mark is no different than that of the marks referenced above.

Moreover, many of these registrations are for the exact types of beverages that the Examining Attorney points to as being the types of beverages made from leaves – such as tea. Thus, these registrations directly contradict the Examining Attorney’s position.

Applicant submits these records as support that a common sense approach should be taken with respect to the disclaimer and to illustrate that the Examining Attorney should use discretion and not single Applicant out by requiring the disclaimer. The third party registrations and applications, at a minimum, contradict and overcome the Examining Attorney’s evidence. [1]

F. The mark is a composite mark and LEAF should not be disclaimed

As noted above, the mark THE BAI LEAF is a direct reference to Applicant’s logo which includes a leaf. The word is not used descriptively. As such, the entire mark is a composite, unitary mark and Applicant should not have to disclaim the word LEAF from the composite mark. See Section 1213.02 of the TMEP (“However, if a composite mark (or portion thereof) is “unitary,” an individual component of the mark (or of the unitary portion) that would otherwise be unregistrable need not be disclaimed.”). As the entire phrase is a reference to Applicant’s logo, it takes on an entire independent commercial impression/meaning, separate and apart from any perceived descriptive connotation advanced by the Examining Attorney. Here, the whole is something more than the sum of its parts.

G. Applicant’s mark is a double entendre and LEAF is not descriptive

Applicant’s mark, when used in connection with the applied-for goods, creates a double entendre and, therefore, is not merely descriptive. Section 1213.05(c) of the TMEP states that:

A “double entendre” is a word or expression capable of more than one interpretation. For trademark purposes, a “double entendre” is an expression that has a double connotation or significance *as applied to the goods or services*. The mark that comprises the “double entendre” will not be refused registration as merely descriptive if one of its meanings is not merely descriptive in relation to the goods or services.

A mark that is a double entendre creates “a different commercial impression or connotation from that conveyed by a misspelled generic or descriptive term.” In re Grand Metropolitan Foodservice, Inc., 30

U.S.P.Q.2d 1974, 1975–76 (T.T.A.B. 1994) (Holding that the meaning or commercial impression of inventive MUFFUNS mark is more than simply “muffins”). When the mark “possesses a degree of ingenuity in its phraseology which is evident in the double entendre that it projects,” the mark is not merely descriptive. In re Delaware Punch Co., 186 U.S.P.Q. 63, 64 (T.T.A.B. 1975). Applicant’s mark creates a different commercial impression from that of the Examining Attorney’s alleged descriptive connotation.

Applicant refutes the Examining Attorney’s contention that LEAF is descriptive. Applicant’s marks is a reference to its logo. Thus, the mark is a double entendre referencing the logo, and not any descriptive characteristic of the goods.

The word “leaf” in the mark is not used to describe the nature of the goods. Because the term “leaf” as well as the mark as a whole is clearly capable of at least two very distinctive interpretations, Applicant’s mark is, by definition, not merely descriptive. Instead, a consumer will have to take a mental pause to evaluate the services that are suggested by the mark to arrive at the conclusion as to the particular type of goods that are actually offered in connection with the mark. As such, the mark is merely suggestive.

In *In re Kraft, Inc.* the TTAB held that:

The mark "LIGHT N' LIVELY" as a whole has a suggestive significance which is distinctly different from the merely descriptive significance of the term "LIGHT" per se. That is, the merely descriptive significance of the term "LIGHT" is lost in the mark as a whole.

See 218 USPQ 571, 573 (TTAB 1983).

Similarly, in *In re Symbra'ette, Inc.*, the TTAB held that the mark SHEER ELEGANCE for panty hose was registrable as a unitary expression. 189 U.S.P.Q. 448 (TTAB 1975). See also In re Colonial Stores Inc., 394 F.2d 549, 157 U.S.P.Q. 382 (C.C.P.A. 1968) (Holding SUGAR & SPICE registrable for bakery products); In re Simmons Co., 189 U.S.P.Q. 352 (TTAB 1976) (Holding THE HARD LINE registrable for mattresses and bed springs); In re Delaware Punch Co., 186 U.S.P.Q. 63 (TTAB 1975) (Holding THE SOFT PUNCH registrable for noncarbonated soft drink); In re National Tea Co., 144 U.S.P.Q. 286 (TTAB 1965) (Holding NO BONES ABOUT IT registrable for fresh pre-cooked ham).

In support of this position, Applicant directs the Examining Attorney's attention to Airco, Inc. v. Air Products & Chemicals, Inc., 196 U.S.P.Q. 832 (T.T.A.B. 1977), where the Board held that the mark AIR-CARE was not merely descriptive of the applicant's preventative maintenance services for hospital and medical anesthesia and inhalation therapy equipment. In reaching this decision, the Board stated:

[t]he literal meaning of the mark, namely, 'care of the air' may, through an exercise of mental gymnastics and extrapolation suggest or hint the nature of applicant's services, but it does not, in any clear or precise way, serve merely to describe applicant's [services].

Similarly, as discussed above, there is no one literal meaning for the wording THE BAI LEAF. Thus, it is apparent that a consumer would in fact have no idea regarding the particular type of goods offered in connection with Applicant's mark.

Applicant's mark is no different than the "double entendres" contained in the cases and registrations cited above. Applicant's unique combination of terms creates a separate commercial expression that has a suggestive significance which is distinctly different from the merely descriptive significance ascribed by the Examining Attorney. The individual terms in the mark THE BAI LEAF function as a unit, with each relating to the other to form a double entendre, rather than describing the applied-for goods. As Applicant's mark is a double entendre, it is not merely descriptive.

H. Thought or analysis must be used to get from "leaf" to the applied for goods

A term is suggestive if, when applied to the goods, it requires some imagination, thought or perception to reach a conclusion as to the nature of the goods. In re Abcor Development Corp., 588 F.2d 811, 200 U.S.P.Q. 215 (C.C.P.A. 1978); T.M.E.P. § 1209.01(b). In other words, a mark is suggestive, and not merely descriptive, where some mental analysis is required to understand the application of the mark to the services. Ex Parte Consolidated Products., 76 U.S.P.Q. 127.

Consumers are not immediately able to discern Applicant's applied-for goods from reviewing the word "leaf" because it is not readily apparent what the word means in connection with Applicant's applied-for

goods. The word forces consumers to ponder the meaning of the mark in connection with Applicant's applied-for goods. The term "leaf" is not readily associated with beverages. Consumers do not use the term to order beverages. Consumers do not say "give me a grinded or brewed leaf drink". They do not say "leaf" when ordering beverages.

At the very minimum, the public must make a "mental pause" to somehow fully comprehend what are Applicant's applied-for goods. A term is suggestive if its "import would not be grasped without some measure of imagination and 'mental pause.'" In re Shutts, 217 U.S.P.Q. 363, 364-65 (T.T.A.B. 1983) ("Shutts") (SNO-RAKE not merely descriptive of "a snow removal hand tool having a handle with a snow-removing head at one end, the head being of solid uninterrupted construction without prongs"). A consumer must ponder the meaning of the word "leaf" in the context of the applied-for goods and determine that usage of the word "leaf" relates to such goods. This, analysis is the exact multistep process discussed in the TMEP and case law.[2]

According to the Examining Attorney, leaf is descriptive because beverages can be made from grinding or brewing the leaves. If this is true, then a consumer seeing Applicant's THE BAI LEAF mark must go through the following process:

1. The consumer must see the mark THE BAI LEAF
2. The consumer must contemplate the LEAF and its connection to the term BAI, which is Applicant's brand name
3. The consumer must then ponder the meaning of the word LEAF
4. The consumer must then derive that LEAF could mean a LEAF that could be grinded or brewed
5. According to the Examining Attorney, that consumer must then contemplate that beverages can be made from a LEAF that can be grinded or brewed

This is exact mental analysis that makes a term suggestive and not descriptive.

Even if the Examining Attorney does not subscribe to Applicant's multistep analysis, Applicant requests the Examining Attorney to ponder the Examining Attorney's own beverage purchasing habits and consider whether the Examining Attorney has ever used the word LEAF to describe a beverage or order a beverage. One does not say – "that beverage sure is leafy" or "I'm thirsty, I'll have a leaf". The word LEAF is not used to describe beverages.

Moreover, "[i]f information about the product or service given by the term used as a mark is indirect or vague, then this indicates that the term is being used in a 'suggestive,' not descriptive, manner." 2 J. Thomas McCarthy, McCarthy on Trademarks and Unfair Competition § 11:19 (4th ed. 2006). This notion is simply the flip side of the aforementioned requirement that the term immediately conveys knowledge about a significant feature of the goods, for if the knowledge is not conveyed directly or if it does not concern a significant attribute, the significance of the term will not be immediately obvious and there will thus be a "mental pause" in the mind of the consumer.

In Shutts, *supra*, upon reversing the Examining Attorney's descriptiveness objection, the Board noted that "[t]he concept of mere descriptiveness . . . must relate to general and readily recognizable word formulations and meanings, either in a popular or technical usage context." *Id.* at 364.

Applicant submits that the word "leaf" does not immediately convey any idea of the goods offered in association with the mark. Instead, certain amounts of imagination, thought and perception are required for the average prospective purchaser to reach a conclusion as to the type of goods offered in connection with Applicant's mark. Even if "leaf" has a descriptive connotation, as the *Uncola* case, states, this is not enough to require a disclaimer. In addition, the mark "stimulates speculation as to its intended meaning and leaves the mind in doubt." As the mark as a whole – as well as the word "leaf" itself - applies a suggestive and imaginative twist to its product or service name, the mark is not merely descriptive.

I. The mark is at least suggestive of the applied-for goods

As indicated above, Applicant's mark is suggestive because it requires imagination and a mental pause in order for a consumer to make a connection between the mark and Applicant's goods. A certain amount of imagination, thought and perception are required for the average prospective purchaser to reach a conclusion as to the specific type of goods offered in connection with Applicant's mark.

There is an element of incongruity which an individual encountering the mark THE BAI LEAF must interpret in order to arrive at the conclusion of what are Applicant's applied-for goods. Section 1213.05(d) of the T.M.E.P. states that "[i]f two or more terms are combined in a mark to create an incongruity (*e.g.*, URBAN SAFARI, MR. MICROWAVE, DR. GRAMMAR), the mark is unitary and no disclaimer of nondistinctive individual elements is necessary."

In *In re Southern National Bank of North Carolina*, the TTAB held that the mark MONEY 24 was suggestive, and not merely descriptive, of banking services, namely, automatic teller machine services. 219 U.S.P.Q. 1231 (T.T.A.B. 1983). The TTAB held that:

[t]he term 'MONEY 24' involves, in applicant's words, 'an element of incongruity' or incompleteness which we believe an individual encountering the mark must interpret in order to arrive at the conclusion that one has access to his or her money by use of applicant's services on a twenty-four hour-a-day basis.

Id. See American Home Products Corp. v. Johnson Chemical Co., 589 F.2d 103, 200 U.S.P.Q. 417 (2d Cir. 1978) (Holding ROACH MOTEL for insect trap held not descriptive because its "very incongruity is what catches one's attention").

Likewise, in In re Cleaner's Supply, Inc., a noncitable decision, the Board reversed a merely-descriptive refusal of BRIDAL KEEPSAFE for "cardboard and paper boxes for storing gowns after dry cleaning." The Examining Attorney argued that the mark BRIDAL KEEPSAFE was merely descriptive because the applicant's boxes were used to keep bridal gowns safe. Ser. No. 75/582,044 (T.T.A.B. January 23, 2003). However, the Board found the mark suggestive (pages 4-5):

[A]lthough these individual elements "bridal," "keep" and "safe" have some descriptive

significance, we cannot say, based on the meanings of the individual words, that the combination BRIDAL KEEPSAFE is merely descriptive of applicant's goods. . . . In this case, some degree of thought or imagination must be used to get from BRIDAL KEEPSAFE to the concept "keeps bridal gowns safe," a phrase which would, of course, be merely descriptive of applicant's boxes. That is, there is an element of incompleteness which we believe an individual encountering the mark must interpret in order to arrive at the conclusion that applicant's boxes are used for holding wedding gowns after cleaning.

There is a similar "element of incongruity" in Applicant's THE BAI LEAF mark such that consumers would not automatically interpret the word "leaf" in the mark to indicate Applicant's applied-for goods. The combination of the words "leaf" and BAI is not one that consumers are used to seeing especially in the context of Applicant's applied-for goods. The two terms do not agree with each other. Consumers do not typically associate the words "leaf" and BAI in connection with Applicant's applied-for goods. Most consumers do not associate the word "leaf" with a drink.

Applicant's unique combination of terms in the phrase THE BAI LEAF forces these incongruous terms together. The combination of terms in Applicant's mark is so incongruous that it forces consumers to ponder the meaning of the phrase THE BAI LEAF and its connection to Applicant's applied-for goods and fully analyze the word "leaf." This is the exact mental analysis that makes the word "leaf" suggestive and not subject to a disclaimer.

The incongruity provided by the unique combination of the words "leaf" and BAI causes consumers to ponder the mark and perform the exact mental analysis described in the case law and T.M.E.P., which is characteristic of a suggestive mark.

The word "leaf" is not the word typically used to describe the goods. Thus, it cannot be said that the word "leaf," as a whole, does nothing but describe Applicant's applied-for goods, because the characteristics or functions of Applicant's applied-for goods are not instantly apparent or immediately indicated by the mark sought to be registered. Accordingly, Applicant should not be required to disclaim the word "leaf" in the mark.

CONCLUSION

In light of the amendments, remarks, and information set forth above, Applicant respectfully

submits that the application is now in condition to be passed to publication. If the Examining Attorney has any further questions or comments, the Examining Attorney is requested to contact the undersigned at the number below.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Jonathan A. Hyman

2040 Main Street, 14th Floor

Irvine, CA 92614

(310) 551-3450

[1] While Applicant is mindful that these third-party registrations are not conclusive on the issue of mere descriptiveness, Applicant respectfully submits that they strongly support Applicant's position. For example, in reversing a merely-descriptive refusal of MISS NUDE CENTERFOLD SEARCH, the Board recently had occasion to explain that "even though the submission of copies of third-party registrations may not be said to establish a binding USPTO practice, it remains the case that such registrations may in general be given some weight to show the meaning of a mark in the same way that dictionary definitions would be so used." In re JMH Prods., Inc., Ser. No. 76/608,812, page 11, available at <http://www.uspto.gov/web/offices/com/sol/foia/ttab/2eissues/2006/76608812.pdf> (T.T.A.B. August 25, 2006). The Board explicitly found that "the plethora of third-party registrations submitted by applicant serve at the very least to raise some doubt" that the applicant's mark is merely descriptive, and it therefore reversed the refusal. Id. at 15. See also In re Men's Int'l Prof'l Tennis Council, 1 U.S.P.Q.2d 1917, 1919 (T.T.A.B. 1986) (reversing merely-descriptive refusal of MASTERS and, with respect to third-party registrations for the term, holding that "the fact that MASTERS has been registered on the Principal Register for golf tournaments, albeit not conclusive evidence of the registrability of MASTERS by appellant for different services, tends to rebut the Examining Attorney's characterization of MASTERS.").

[2] See e.g., Blisscraft of Hollywood v. United Plastics Co. et. al., 131 U.S.P.Q. 55 (2nd Cir. 1961); (POLY PITCHER not merely descriptive to the prospective purchasers of the goods); Ex parte Candle Vase, Inc., 105 U.S.P.Q. 73, 74 (Comm'r of Patents 1965) (CANDLE VASE not merely descriptive of flower holder adapted for fitting around the base of a candle since the mark "stimulates speculation as to its intended meaning and leaves the mind in doubt"); In re Scott Paper Co., 180 U.S.P.Q. 283 (T.T.A.B. 1973) (MICRO-WIPES for small paper wipes held "merely suggestive"); In re TMS Corp. of the Americas, 200 U.S.P.Q. 57, 58-59 (T.T.A.B. 1978) (THE MONEY STORE is not merely descriptive of financial goods business); Rodeo Collection Ltd. v. West Seventh, 2 U.S.P.Q.2d 1204, 1206-1207 (9th Cir. 1987) (RODEO COLLECTION not merely descriptive for shopping center goods); In re Abcor Development Corp., 588 F.2d 811, 200 U.S.P.Q. 215 (C.C.P.A. 1978); Levi Strauss & Co. v. R. Josephs Sportswear, Inc., 28 U.S.P.Q.2d 1464 (T.T.A.B. 1993) (ACTION SLACKS not merely descriptive of pants); Citibank, N.A. v. Citibanc Group, Inc., 724 F.2d 1540, 222 U.S.P.Q. 292 (11th Cir.), reh'g denied, 731 F.2d 891 (11th Cir. 1984) (CITIBANK is at most

suggestive, and is not merely descriptive, of an urban bank); In re Shop-Vac Corp., 219 U.S.P.Q. 470 (T.T.A.B. 1983) (WET/DRY BROOM is suggestive of electric vacuum cleaners); Manpower v. Driving Force, Inc., 212 U.S.P.Q. 961 (T.T.A.B. 1981) (DRIVING FORCE is suggestive of truck driving services because imagination is required to reach a conclusion about the nature of the services); Ex parte Consolidated Prods. Co., 76 U.S.P.Q. 73, 74 (Comm'r of Patents 1948); In re Daisy Mfg. Co., 135 U.S.P.Q. 213 (T.T.A.B. 1962) (TV GUNS OF THE WEST not merely descriptive of toy guns); Audio Fidelity, Inc. v. London Records, Inc., 141 U.S.P.Q. 792 (C.C.P.A. 1964) (AUDIO FIDELITY not merely descriptive of phonograph records); and In re Werner Electric Brake & Clutch Co., 154 U.S.P.Q. 328 (T.T.A.B. 1967) (ELECTRO-MODULE not descriptive of goods even though each term, considered separately, was found to describe applicant's goods).

EVIDENCE

Evidence in the nature of Exhibit A: example of BAI logo with leaf design; Exhibit B: TESS printouts of LEAF marks has been attached.

Original PDF file:

[evi_1732271924-20150202171237465461_.BAI.048T-OAResp-Exh-A.pdf](#)

Converted PDF file(s) (2 pages)

[Evidence-1](#)

[Evidence-2](#)

Original PDF file:

[evi_1732271924-20150202171237465461_.BAI.048T-OAResp-Exh-B-1.pdf](#)

Converted PDF file(s) (15 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

[Evidence-5](#)

[Evidence-6](#)

[Evidence-7](#)

[Evidence-8](#)

[Evidence-9](#)

[Evidence-10](#)

[Evidence-11](#)

[Evidence-12](#)

[Evidence-13](#)

[Evidence-14](#)

[Evidence-15](#)

Original PDF file:

[evi_1732271924-20150202171237465461_.BAI.048T-OAResp-Exh-B-2.pdf](#)

Converted PDF file(s) (20 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

[Evidence-5](#)

[Evidence-6](#)

[Evidence-7](#)

[Evidence-8](#)
[Evidence-9](#)
[Evidence-10](#)
[Evidence-11](#)
[Evidence-12](#)
[Evidence-13](#)
[Evidence-14](#)
[Evidence-15](#)
[Evidence-16](#)
[Evidence-17](#)
[Evidence-18](#)
[Evidence-19](#)
[Evidence-20](#)

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /jhh/ Date: 02/02/2015

Signatory's Name: Jonathan A. Hyman

Signatory's Position: Attorney of record, California bar member

Signatory's Phone Number: 310-551-3450

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 86269396

Internet Transmission Date: Mon Feb 02 17:28:10 EST 2015

TEAS Stamp: USPTO/RFR-173.227.19.24-2015020217281008

7210-86269396-53068642ad232e827f74211504

3b4e5c23776285a7ee49f4717338c9f4e5dc9ac-

N/A-N/A-20150202171237465461

EXHIBIT A



EXHIBIT B

**United States Patent and Trademark Office**

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz](#)
[alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Fri Jan 9 03:20:53 EST 2015

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#) [PREV LIST](#) [CURR LIST](#)
[NEXT LIST](#) [FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

[Start](#) [List](#)
At:

OR [Jump](#) to
record:

**Record 8 out of
36**

[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) (Use the "Back" button of the Internet
Browser to return to TESS)

Leaf & Love

Word Mark LEAF & LOVE

Goods and Services IC 032. US 045 046 048. G & S: Aloe juice beverages; apple juice beverages; beauty beverages, namely, fruit juices and energy drinks containing nutritional supplements; coconut-based beverages not being milk substitutes; cola drinks; concentrates for making fruit drinks; concentrates, syrups or powders for making soft drinks or tea-flavored beverages; drinking water with vitamins; drinking waters; energy drinks; frozen fruit drinks; fruit beverages; fruit concentrates and purees used as ingredients of beverages; fruit drinks and fruit juices; fruit drinks and juices; fruit flavored drinks; fruit flavored soft drinks; fruit flavoured carbonated drinks; fruit-based beverages; fruit-flavored beverages; grape juice beverages; isotonic drinks; lemon juice for use in the preparation of beverages; lemonade; lemonades; lime juice for use in the preparation of beverages; non-alcoholic beverages containing fruit juices; non-alcoholic fruit

juice beverages; non-alcoholic honey-based beverages; orange juice beverages; pineapple juice beverages; soft drinks; soft drinks, namely, sodas; sports drinks; syrup for making lemonade; syrups for making fruit-flavored drinks; vegetable drinks. FIRST USE: 20140723. FIRST USE IN COMMERCE: 20140723

**Standard
Characters
Claimed**

**Mark
Drawing
Code** (4) STANDARD CHARACTER MARK

**Serial
Number** 86169200

Filing Date January 17, 2014

**Current
Basis** 1A

**Original
Filing Basis** 1B

**Published
for
Opposition** May 27, 2014

**Registration
Number** 4629942

**Registration
Date** October 28, 2014

Owner (REGISTRANT) Leaf & Love, Inc. CORPORATION CALIFORNIA 3940 Laurel Canyon Blvd. #256 Studio City CALIFORNIA 91604

**Attorney of
Record** Jill Birkmann

Type of Mark TRADEMARK

Register PRINCIPAL

**Live/Dead
Indicator** LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST
NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC					

[|.HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)

**United States Patent and Trademark Office**

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz](#)
[alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Fri Jan 9 03:20:53 EST 2015

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#) [PREV LIST](#) [CURR LIST](#)
[NEXT LIST](#) [FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

[Start](#) [List](#)
At:

OR [Jump](#) to
record:

**Record 26 out
of 59**

[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) (Use the "Back" button of the Internet
Browser to return to TESS)

MIGHTY LEAF ORIGINS

Word Mark	MIGHTY LEAF ORIGINS
Goods and Services	IC 030. US 046. G & S: Tea ; Herbal tea for food purposes; Tea bags; Tea extracts; Tea substitutes; Tea -based beverages. FIRST USE: 20120821. FIRST USE IN COMMERCE: 20120821
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85545838
Filing Date	February 17, 2012
Current Basis	1A

Original Filing Basis 1B
Published for Opposition June 26, 2012
Registration Number 4321988
Registration Date April 16, 2013
Owner (REGISTRANT) Mighty Leaf Tea CORPORATION CALIFORNIA 136
Mitchell Boulevard San Rafael CALIFORNIA 94903
Attorney of Record Charles C. Valauskas
Prior Registrations 2423886;2443164;2800766;AND OTHERS
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST
NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC					

[|.HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)

**United States Patent and Trademark Office**

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz](#)
[alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Fri Jan 9 03:20:53 EST 2015

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#) [PREV LIST](#) [CURR LIST](#)
[NEXT LIST](#) [FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

[Start](#) [List](#)
At:

OR [Jump](#) to
record:

**Record 44 out
of 92**

[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) (Use the "Back" button of the Internet
Browser to return to TESS)



Word Mark TRIPLE LEAF TEA

Goods and Services IC 030. US 046. G & S: Tea. FIRST USE: 19961001. FIRST USE IN COMMERCE: 19961001

Mark

Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code 05.03.08 - More than one leaf, including scattered leaves, bunches of leaves not attached to branches

24.05.01 - Circular or elliptical seals; Seals, circular or elliptical
26.01.21 - Circles that are totally or partially shaded.

Trademark Search SHAPES-BAR-BANDS Designs with bar, bands or lines
SHAPES-CIRCLE Circle figures or designs including semi-circles and

Facility incomplete circles
Classification Code SHAPES-SEALS Round or slightly rounded shape with an emblem embossed on the inside of the circle
VEG Plant life such as trees, flowers, fruits, grains, nuts, wreaths, and leaves
Serial Number 85040750
Filing Date May 17, 2010
Current Basis 1A
Original Filing Basis 1A
Published for Opposition October 19, 2010
Registration Number 3900142
Registration Date January 4, 2011
Owner (REGISTRANT) Lam, Johnson DBA Triple Leaf Tea, Inc. INDIVIDUAL
UNITED STATES 434 North Canal Street, Unit 5 South San Francisco
CALIFORNIA 94080
Prior Registrations 1620195
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "TEA" APART FROM THE MARK AS SHOWN
Description of Mark Color is not claimed as a feature of the mark. The mark consists of a circle with three stylized leaves surrounded by the wording "TRIPLE LEAF TEA".
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST
NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC					

[|.HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)

**United States Patent and Trademark Office**

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz](#)
[alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Fri Jan 9 03:20:53 EST 2015

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#) [PREV LIST](#) [CURR LIST](#)
[NEXT LIST](#) [FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

[Start](#) [List](#)
At:

OR [Jump](#) to
record:

**Record 32 out
of 59**

[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) (Use the "Back" button of the Internet
Browser to return to TESS)

**Word Mark**

BAMBOO LEAF GREEN

Translations

The non-Latin characters in the mark transliterate to "zhu ye qing" and this means "green bamboo leaf" in English. "Bamboo Leaf Green" is the direct translation of the 3 Chinese Characters in the mark.

**Goods and
Services**

IC 030. US 046. G & S: **Tea; tea substitute**

**Mark Drawing
Code**

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

**Design Search
Code**

05.03.25 - Leaf, single; Other leaves
26.17.09 - Bands, curved; Bars, curved; Curved line(s), band(s) or bar(s); Lines, curved
28.01.03 - Asian characters; Chinese characters; Japanese characters

Serial Number	79008716
Filing Date	December 9, 2004
Current Basis	66A
Original Filing Basis	66A
Published for Opposition	July 4, 2006
Registration Number	3148868
International Registration Number	0842771
Registration Date	September 26, 2006
Owner	(REGISTRANT) SICHUAN EMEI-SHAN ZHUYEQING TEA CO., LTD. CORPORATION CHINA East Foguang Rd, Emei-shan City Sichuan Province CHINA
Attorney of Record	Michael D. Schumann
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "Green" APART FROM THE MARK AS SHOWN
Description of Mark	Color is not claimed as a feature of the mark.
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECTION 71
Live/Dead Indicator	LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST
NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC					

[|.HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)

**United States Patent and Trademark Office**

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz](#)
[alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Fri Jan 9 03:20:53 EST 2015

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#) [PREV LIST](#) [CURR LIST](#)
[NEXT LIST](#) [FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

[Start](#) [List](#)
[At:](#) OR [Jump](#) to
record:

**Record 43 out
of 59**

[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) (Use the "Back" button of the Internet
Browser to return to TESS)

SWEET LEAF

Word Mark	SWEET LEAF
Goods and Services	IC 030. US 046. G & S: Iced tea. FIRST USE: 19980900. FIRST USE IN COMMERCE: 20000700
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77450177
Filing Date	April 16, 2008
Current Basis	1A

Original Filing Basis 1A

Published for Opposition September 2, 2008

Registration Number 3590263

Registration Date March 17, 2009

Owner (REGISTRANT) Sweet Leaf Tea Company CORPORATION TEXAS 515
South Congress Avenue, Suite 700 Austin TEXAS 78704

(LAST LISTED OWNER) SOCIETE DES PRODUITS NESTLE S.A.
SOCIETE ANONYME SWITZERLAND CASE POSTALE 353 1800
VEVEY SWITZERLAND 0

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record William H. Brewster

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST
NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC					

[|.HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)

**United States Patent and Trademark Office**

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz](#)
[alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Fri Jan 9 03:20:53 EST 2015

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#) [PREV LIST](#) [CURR LIST](#)
[NEXT LIST](#) [FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

[Start](#) [List](#)
At:

OR [Jump](#) to
record:

**Record 1 out of
36**

[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) (Use the "Back" button of the Internet
Browser to return to TESS)

Orange Leaf

Word Mark	ORANGE LEAF
Goods and Services	IC 032. US 045 046 048. G & S: Smoothies; Smoothies. FIRST USE: 20120201. FIRST USE IN COMMERCE: 20120201
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	86257361
Filing Date	April 21, 2014
Current Basis	1A

Original Filing Basis 1A
Published for Opposition October 21, 2014
Registration Number 4666313
Registration Date January 6, 2015
Owner (REGISTRANT) Orange Leaf Holdings LLC DBA Orange Leaf Frozen Yogurt LIMITED LIABILITY COMPANY OKLAHOMA 14201 Caliber Dr., Suite 200 Oklahoma City OKLAHOMA 73134
Attorney of Record James Robert (Jim) Johnson
Prior Registrations 3814302;3814304;4368308
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST
NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC					

[|.HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)

**United States Patent and Trademark Office**

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz](#)
[alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Jul 9 03:20:57 EDT 2014

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#) [PREV LIST](#) [CURR LIST](#)
[NEXT LIST](#) [FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

[Start](#) [List](#)
At:

OR [Jump](#) to
record:

**Record 50 out
of 53**

[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) (Use the "Back" button of the Internet
Browser to return to TESS)



Word Mark
Goods and
Services

LUCKY LEAF

IC 029. US 046. G & S: Canned Fruits, Canned Apple Sauce, Apple Butter, Apple Jelly and Canned Fruit Pie Fillings. FIRST USE: 19591119. FIRST USE IN COMMERCE: 19591119

IC 030. US 046. G & S: Cream Pie Fillings, Vinegar, Strawberry Glaze and Flavored Puddings. FIRST USE: 19591119. FIRST USE IN COMMERCE: 19591119

IC 032. US 046. G & S: Canned Apple Juice, Prune Juice, Grape Juice and Tomato Juice. FIRST USE: 19591119. FIRST USE IN COMMERCE: 19591119

IC 033. US 046. G & S: Sweet Apple Cider. FIRST USE: 19591119. FIRST

USE IN COMMERCE: 19591119

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code 05.03.25 - Leaf, single; Other leaves

Serial Number 73292985

Filing Date January 14, 1981

Current Basis 1A

Original Filing Basis 1A

Published for Opposition November 24, 1981

Change In Registration CHANGE IN REGISTRATION HAS OCCURRED

Registration Number 1190149

Registration Date February 16, 1982

Owner (REGISTRANT) KNOUSE FOODS COOPERATIVE, INC. CORPORATION
PENNSYLVANIA 800 PEACH GLEN-IDAVILLE ROAD PEACH GLEN
PENNSYLVANIA 17375

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record MICHAEL A. DOCTROW

Description of Mark THE MARK IS LINED FOR THE COLOR GREEN.

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20010927.

Renewal 1ST RENEWAL 20010927

Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST
NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC					

[|.HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)

**United States Patent and Trademark Office**

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz](#)
[alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Jul 9 03:20:57 EDT 2014

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#) [PREV LIST](#) [CURR LIST](#)
[NEXT LIST](#) [FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

[Start](#) [List](#)
At:

OR [Jump](#) to
record:

**Record 49 out
of 53**

[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) (Use the "Back" button of the Internet
Browser to return to TESS)

Typed Drawing

Word Mark	APPLE LEAF
Goods and Services	IC 032. US 045. G & S: Apple Juice. FIRST USE: 19820915. FIRST USE IN COMMERCE: 19820915 IC 033. US 046. G & S: Non-Alcoholic Apple Cider. FIRST USE: 19820915. FIRST USE IN COMMERCE: 19820915
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	73392013
Filing Date	September 28, 1982
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	June 26, 1984

Registration Number 1394281
Registration Date May 20, 1986
Owner (REGISTRANT) KNOUSE FOODS COOPERATIVE, INC. CORPORATION
PENNSYLVANIA 800 PEACH GLEN-IDAVILLE ROAD PEACH GLEN
PENNSYLVANIA 17375
Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record MICHAEL A. DOCTROW
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "APPLE"
APART FROM THE MARK AS SHOWN
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20051208.
Renewal 1ST RENEWAL 20051208
Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST
NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC					

[|.HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)

**United States Patent and Trademark Office**

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz](#)
[alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Jul 9 03:20:57 EDT 2014

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DIET](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#) [PREV LIST](#) [CURR LIST](#)
[NEXT LIST](#) [FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

[Start](#) [List](#)
[At:](#)

OR [Jump](#) to
record:

**Record 33 out
of 53**

[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) (Use the "Back" button of the Internet
Browser to return to TESS)

SWEET LEAF

Word Mark
Goods and
Services

Standard
Characters
Claimed

Mark Drawing
Code

Serial Number

Filing Date

Current Basis

SWEET LEAF

IC 032. US 045 046 048. G & S: Lemonades. FIRST USE: 20070600.
FIRST USE IN COMMERCE: 20070600

(4) STANDARD CHARACTER MARK

77450191

April 16, 2008

1A

Original Filing Basis 1A

Published for Opposition September 2, 2008

Registration Number 3590264

Registration Date March 17, 2009

Owner (REGISTRANT) Sweet Leaf Tea Company CORPORATION TEXAS 515
South Congress Avenue, Suite 700 Austin TEXAS 78704

(LAST LISTED OWNER) SOCIETE DES PRODUITS NESTLE S.A.
SOCIETE ANONYME SWITZERLAND CASE POSTALE 353 1800
VEVEY SWITZERLAND 0

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record William H. Brewster

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST
NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC					

[|.HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)

**United States Patent and Trademark Office**

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz](#)
[alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Jul 9 03:20:57 EDT 2014

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#) [PREV LIST](#) [CURR LIST](#)
[NEXT LIST](#) [FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

[Start](#) [List](#)
At:

OR [Jump](#) to
record:

**Record 32 out
of 53**

[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) (Use the "Back" button of the Internet
Browser to return to TESS)

COCO LEAF

Word Mark COCO LEAF

Goods and Services IC 032. US 045 046 048. G & S: Coconut-based beverages. FIRST
USE: 20090726. FIRST USE IN COMMERCE: 20090726

Standard

Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 77778409

Filing Date July 10, 2009

Current Basis 1A

Original Filing Basis 1B

**Published for
Opposition** January 5, 2010

Registration Number 3887342
Registration Date December 7, 2010
Owner (REGISTRANT) Tristar Food Wholesale Co., Inc. CORPORATION
NEW JERSEY 115 Amity Street Jersey City NEW JERSEY 07304
Attorney of Record Denton L. Anderson
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST
NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC					

[|.HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)

**United States Patent and Trademark Office**

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Jul 9 03:20:57 EDT 2014

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#) [PREV LIST](#) [CURR LIST](#)
[NEXT LIST](#) [FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

[Start](#) [List](#)
At:

OR [Jump](#) to
record:

**Record 12 out
of 53**

[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) (Use the "Back" button of the Internet
Browser to return to TESS)

LEAF & STEM NATURALS

Word Mark LEAF & STEM NATURALS

Goods and Services IC 003. US 001 004 006 050 051 052. G & S: All natural health and beauty care products, namely, after shave lotion, anti-aging creams, antiperspirant, baby oil, baby powder, baby soap, bar soap, bath oils, bath salt with essential oils, bath herbs, bath teas, bathroom cleaner, body lotions, body scrubs, bruise ointments, bug bite ointments, callous ointment and creams, cologne, cosmetic nourishing creams, cosmetic oil for epidermis, cosmetic preparations for body care, cosmetic preparations against sunburn, cosmetic preparations for the hair and scalp, cosmetic rouges, cosmetic skin fresheners, cosmetic tanning preparations, cosmetics and make-up, cradle cap creams, cuticle cream, dentifrices, deodorant, diaper rash creams, dish soap, dry and chapped skin salves, essential oils, exfoliating cream, exfoliating face masks, eye shadow, eye liner, eye lotions, eye makeup, face and body peels, face cleansers, face

creams, face creams for cosmetic use, face masks, face oils, face powder, face serum, facial scrubs, firming face masks, furniture polish, glass cleaner, hair conditioners, hair oil treatments, hair rinses, hand and foot creams, hand wash, healing clay, healing ointments, hydrating face masks, hydration ointments and creams, laundry soap leg toner, lip balms, lip gloss, lipstick, liquid hand soap, liquid soaps for hands and face, liquid shower gel soaps, men's face cream, men's face cream, men's hand cream, men's lotion, men's shaving cream, moisturizers, muscle relaxer ointment, neck cream, night non-medicated aches and pain salves, creams, non-medicated baby creams, non-medicated creams for eczema, non-medicated sunburn creams, oils and creams for skin renewal, oral care preparations, perfumes, salt scrub, scalp care treatments, shampoos, shower gel, skin emollients, snorkel defogger spray, stretch mark creams and oils, sugar scrub, cooking burn creams and oils, sunscreens, toning lotion, for the face, body and hands, under eye cream, vitamin C serum, whipped aloe butter, whipped cocoa butter, whipped Shea butter, wrinkle reducing face masks

IC 005. US 006 018 044 046 051 052. G & S: all natural herbal supplements, herbal tinctures, herbal topical creams, gels, salves, sprays, powder, balms, liniment and ointments for the relief of aches and pain, medicated aches and pain salves, medicated baby cream, medicated baby powder, medicated creams for eczema, medicated sunburn creams, medicated dermatological preparations and substances, medicated diaper rash ointments and lotions

IC 030. US 046. G & S: all natural herbal teas, herbal infusions, herbal food beverages, powdered drink mixes, dried herbs, rice, pasta, spices, spice blends, spice rubs

IC 032. US 045 046 048. G & S: herbal juices, herbal nonalcoholic beers, seltzer water, herbal drinks

IC 033. US 047 049. G & S: all natural herbal wines, distilled spirits, herbal liquors

**Standard
Characters
Claimed**

**Mark
Drawing
Code** (4) STANDARD CHARACTER MARK

**Serial
Number** 85907068

Filing Date April 17, 2013

**Current
Basis** 1B

**Original
Filing Basis** 1B

Published for Opposition April 15, 2014
Owner (APPLICANT) Leaf & Stem Naturals, LLC LIMITED LIABILITY COMPANY
DELAWARE 5237 River Road Suite 202 Bethesda MARYLAND 208161415
Attorney of Record Douglas N. Masters
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "NATURALS"
APART FROM THE MARK AS SHOWN
Description of Mark Color is not claimed as a feature of the mark.
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE.DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST
NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC					

[|.HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)

**United States Patent and Trademark Office**

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz](#)
[alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Jul 9 03:20:57 EDT 2014

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#) [PREV LIST](#) [CURR LIST](#)
[NEXT LIST](#) [FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

[Start](#) [List](#)
At:

OR [Jump](#) to
record:

**Record 24 out
of 53**

[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) (Use the "Back" button of the Internet
Browser to return to TESS)

Typed Drawing

Word Mark	NEW LEAF
Goods and Services	(CANCELLED) IC 029. US 046. G & S: [SOY BASED DRINKS as milk substitutes]. FIRST USE: 20040101. FIRST USE IN COMMERCE: 20040301
	IC 030. US 046. G & S: non-alcoholic beverages, NAMELY, ICED TEAS, HERBAL TEAS AND TEA-BASED BEVERAGES WITH FRUIT FLAVORING. FIRST USE: 20040101. FIRST USE IN COMMERCE: 20040301
	IC 032. US 045 046 048. G & S: non - alcoholic beverages namely carbonated soft drinks, fruit juices, smoothies, drinking water, fruit drinks, energy drinks, sports and energy drinks. FIRST USE: 20040101. FIRST USE IN COMMERCE: 20040301
Mark Drawing Code	(1) TYPED DRAWING

Serial Number 78289768
Filing Date August 20, 2003
Current Basis 1A
Original Filing Basis 1B
Published for Opposition October 12, 2004
Change In Registration CHANGE IN REGISTRATION HAS OCCURRED
Registration Number 2916219
Registration Date January 4, 2005
Owner (REGISTRANT) Midnight Sun Brands LIMITED LIABILITY COMPANY
DELAWARE 60 Dutch Hill Road Suite 9 Orangeburg NEW YORK 10962

(LAST LISTED OWNER) SKAE BEVERAGE INTERNATIONAL, LLC
LIMITED LIABILITY COMPANY DELAWARE Suite 208 One DeWolf Road
Old Tappan NEW YORK 07675

Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record Mark F. Warzecha
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. PARTIAL SECT 8 (6-YR).
Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST
NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC					

[|.HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)

**United States Patent and Trademark Office**

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Fri Jan 9 03:20:53 EST 2015

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#) [PREV LIST](#) [CURR LIST](#)
[NEXT LIST](#) [FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

[Start](#) [List](#)
At:

OR [Jump](#) to
record:

**Record 29 out
of 59**

[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) (Use the "Back" button of the Internet
Browser to return to TESS)

Leaf of Faith

Word Mark	LEAF OF FAITH
Goods and Services	IC 030. US 046. G & S: Tea. FIRST USE: 20111206. FIRST USE IN COMMERCE: 20111206
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85182327
Filing Date	November 22, 2010
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	April 12, 2011

Registration Number 4191348
Registration Date August 14, 2012
Owner (REGISTRANT) Turner, Michelle INDIVIDUAL UNITED STATES
24973 Second Ave. Murrieta CALIFORNIA 92562
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST
NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC					

[|.HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)

**United States Patent and Trademark Office**

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Jul 9 03:20:57 EDT 2014

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#) [PREV LIST](#) [CURR LIST](#)
[NEXT LIST](#) [FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

[Start](#) [List](#)
At:

OR [Jump](#) to
record:

**Record 19 out
of 53**

[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) (Use the "Back" button of the Internet
Browser to return to TESS)

DEAD LEAF GREEN

Word Mark	DEAD LEAF GREEN
Goods and Services	IC 032. US 045 046 048. G & S: Beer. FIRST USE: 20060530. FIRST USE IN COMMERCE: 20060701
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85374033
Filing Date	July 18, 2011
Current Basis	1A
Original Filing Basis	1B

Published for Opposition December 13, 2011
Registration Number 4227033
Registration Date October 16, 2012
Owner (REGISTRANT) 23 Bottles of Beer LLC LIMITED LIABILITY COMPANY
CALIFORNIA 1812 Ferdinand Court Santa Rosa CALIFORNIA 95404
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST
NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC					

|.HOME | SITE INDEX| SEARCH | eBUSINESS | HELP | PRIVACY POLICY



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Fri Jan 9 03:20:53 EST 2015

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#)[Logout](#) Please logout when you are done to release system resources allocated for you.

Record 1 out of 1

[TSDR](#) [ASSIGNMENT](#) [LEAD SEARCH](#) (Use the "Back" button of the Internet Browser to return to TESS)

FROM A LEAF, NOT A LAB

Word Mark	FROM A LEAF, NOT A LAB
Goods and Services	IC 030. US 046. G & S: tea and beverages made from tea
	IC 032. US 045 046 048. G & S: energy drinks; energy drinks containing nutritional supplements
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	86379182
Filing Date	August 27, 2014
Current Basis	1B
Original Filing Basis	1B
Published for Opposition	January 20, 2015
Owner	(APPLICANT) Runa LLC LIMITED LIABILITY COMPANY RHODE ISLAND 33 Flatbush Avenue, Suite 505 Brooklyn NEW YORK 11217
Attorney of Record	Wade Savoy
Prior Registrations	3634979
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [TOP](#) [HELP](#)

**United States Patent and Trademark Office**

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Jul 9 03:20:57 EDT 2014

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#) [PREV LIST](#) [CURR LIST](#)
[NEXT LIST](#) [FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

[Start](#) [List](#)
[At:](#)

OR [Jump](#) to
record:

**Record 13 out
of 53**

[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) (Use the "Back" button of the Internet
Browser to return to TESS)

Loose Leaf

Word Mark	LOOSE LEAF
Goods and Services	IC 032. US 045 046 048. G & S: Ale; Beer. FIRST USE: 20130520. FIRST USE IN COMMERCE: 20130520
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85765177
Filing Date	October 26, 2012
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	February 26, 2013

Registration Number 4389650
Registration Date August 20, 2013
Owner (REGISTRANT) Odell Brewing Company CORPORATION
COLORADO 800 E. Lincoln Fort Collins COLORADO 80524
Attorney of Record Kay L. Collins
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST
NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC					

[|.HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Mon Feb 2 03:21:22 EST 2015

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#)[Logout](#)

Please logout when you are done to release system resources allocated for you.

Record 1 out of 1[TSDR](#)[AVAILABILITY STATUS](#)[TEAS STATUS](#)

(Use the "Back" button of the Internet Browser to return to TESS)

Two Leaves Tea Company

Word Mark	TWO LEAVES TEA COMPANY
Goods and Services	IC 030. US 046. G & S: Beverages made of tea; Black tea; Chai tea; Coffee and tea; Fruit teas; Green tea; Herb tea; Herbal tea; Iced tea; Tea. FIRST USE: 20120329. FIRST USE IN COMMERCE: 20120329
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85607140
Filing Date	April 24, 2012
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	October 16, 2012
Registration Number	4267597
Registration Date	January 1, 2013
Owner	(REGISTRANT) Rosenfeld, Richard A. INDIVIDUAL UNITED STATES 23400 Two Rivers Road, Suite 45 Basalt COLORADO 81621
Prior Registrations	2974248
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "TEA COMPANY" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Mon Feb 2 03:21:22 EST 2015

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#) [PREV LIST](#) [CURR LIST](#)
[NEXT LIST](#) [FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

[Start](#) List At: OR [Jump](#) to record: **Record 7 out of 94**

[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)

PIPER AND LEAF

Word Mark PIPER AND LEAF

Goods and Services IC 030. US 046. G & S: Tea; Tea extracts; Tea-based beverages

Standard

Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 86266776

Filing Date April 30, 2014

Current Basis 1B

Original Filing Basis 1B

Published for Opposition September 23, 2014

Owner (APPLICANT) Samovar Gardens LLC LIMITED LIABILITY COMPANY ALABAMA 406 Williams & Broad Dr Brownsboro ALABAMA 35741

Attorney of Record Mary Lindblom

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [TOP](#) [HELP](#) [PREV LIST](#) [CURR LIST](#)
[NEXT LIST](#) [FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#)
